

# House File 2456 - Introduced

HOUSE FILE 2456

BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HF 2021)

(COMPANION TO LSB 5533SV BY

COMMITTEE ON TRANSPORTATION)

## A BILL FOR

1 An Act prohibiting a person from writing or sending a text

2 message while driving a motor vehicle and providing

3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.210, subsection 2, Code 2009, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *e.* Violations of section 321.276.

4 Sec. 2. NEW SECTION. **321.276 Text-messaging while driving.**

5 1. For purposes of this section:

6 *a.* "*Engage in a call*" means talking or listening on a mobile  
7 telephone or other portable electronic communication device.

8 *b.* "*Hand-held electronic communication device*" means a mobile  
9 telephone or other portable electronic communication device  
10 capable of being used to write, send, or read a text message.

11 "*Hand-held electronic communication device*" does not include a  
12 voice-operated or hands-free device which allows the user to  
13 write, send, or read a text message without the use of either  
14 hand except to activate or deactivate a feature or function.

15 "*Hand-held electronic communication device*" includes a device  
16 which is temporarily mounted inside the motor vehicle, unless  
17 the device is a voice-operated or hands-free device.

18 *c.* "*Text message*" includes a text-based message, an instant  
19 message, and electronic mail.

20 *d.* The terms "*write*", "*send*", and "*read*", with respect  
21 to a text message, mean the manual entry, transmission, and  
22 retrieval of a text message, respectively, to communicate with  
23 any other person or device.

24 2. A person shall not use a hand-held electronic  
25 communication device to write or send a text message while  
26 driving a motor vehicle unless the motor vehicle is at a  
27 complete stop off the roadway. A person is not writing or  
28 sending a text message when using a global positioning system  
29 or navigation system or when, for the purpose of engaging in a  
30 call, the person selects or enters a telephone number or name  
31 in a hand-held mobile telephone or activates, deactivates, or  
32 initiates a function of a hand-held mobile telephone.

33 3. The provisions of this section shall be implemented  
34 uniformly throughout the state. The provisions of this section  
35 shall preempt any local county or municipal ordinance regarding

1 the use of an electronic communication device by a motor  
2 vehicle operator to write, send, or read a text message. In  
3 addition, a county or municipality shall not adopt or continue  
4 in effect an ordinance regarding the use of an electronic  
5 communication device by a motor vehicle operator to write,  
6 send, or read a text message.

7 4. Nothing in this section shall be construed to authorize a  
8 peace officer to confiscate a portable electronic communication  
9 device from the driver or occupant of a motor vehicle.

10 5. a. A person convicted of a violation of this section  
11 is guilty of a simple misdemeanor punishable as a scheduled  
12 violation under section 805.8A, subsection 14, paragraph "k".

13 b. A violation of this section shall not be considered a  
14 moving violation for purposes of this chapter or rules adopted  
15 pursuant to this chapter.

16 6. For the period beginning July 1, 2010, through June 30,  
17 2011, peace officers shall issue only warning citations for  
18 violations of this section. The department, in cooperation  
19 with the department of public safety, shall establish  
20 educational programs to foster compliance with the requirements  
21 of this section.

22 Sec. 3. Section 321.482A, unnumbered paragraph 1, Code  
23 2009, is amended to read as follows:

24 Notwithstanding section 321.482, a person who is convicted  
25 of operating a motor vehicle in violation of section 321.275,  
26 subsection 4, section 321.276, 321.297, 321.298, 321.299,  
27 321.302, 321.303, 321.304, 321.305, 321.306, 321.307, 321.308,  
28 section 321.309, subsection 2, or section 321.311, 321.319,  
29 321.320, 321.321, 321.322, 321.323, 321.323A, 321.324,  
30 321.324A, 321.327, 321.329, or 321.333 causing serious injury  
31 to or the death of another person may be subject to the  
32 following penalties in addition to the penalty provided for  
33 a scheduled violation in section 805.8A or any other penalty  
34 provided by law:

35 Sec. 4. Section 321.555, subsection 2, Code 2009, is amended

1 to read as follows:

2        2. Six or more of any separate and distinct offenses within  
3 a two-year period in the operation of a motor vehicle, which  
4 are required to be reported to the department by section  
5 321.491 or chapter 321C, except equipment violations, parking  
6 violations as defined in section 321.210, violations of  
7 registration laws, violations of sections 321.445 and 321.446,  
8 violations of section 321.276, operating a vehicle with an  
9 expired license or permit, failure to appear, weights and  
10 measures violations and speeding violations of less than  
11 fifteen miles per hour over the legal speed limit.

12       Sec. 5. Section 805.8A, subsection 14, Code Supplement  
13 2009, is amended by adding the following new paragraph:

14     NEW PARAGRAPH.   *k. Text-messaging while driving*  
15 *violations.* For violations under section 321.276, the scheduled  
16 fine is thirty dollars.

### EXPLANATION

18       This bill prohibits a person from using a hand-held  
19 electronic communication device to write or send a text message  
20 while driving a motor vehicle, unless the motor vehicle is at a  
21 complete stop off the roadway.

22 The bill defines "text message" to include a text-based  
23 message, an instant message, and electronic mail. "Hand-held  
24 electronic communication device" means a mobile telephone or  
25 other portable electronic communication device capable of being  
26 used to write, send, or read a text message. The definition  
27 excludes a voice-operated or hands-free device.

28     The use of a hand-held mobile telephone to engage in a call  
29 is not considered text messaging, nor is the use of a global  
30 positioning system or navigation system.

31 The provisions of the bill are to be implemented uniformly  
32 throughout the state and shall preempt any local county or  
33 municipal ordinance relating to the use of an electronic  
34 communication device to write, send, or read a text message.  
35 The bill prohibits a county or municipality from adopting such

1 an ordinance or continuing such an ordinance currently in  
2 effect.

3 The bill does not authorize a peace officer to confiscate  
4 a portable electronic communication device from a driver or  
5 occupant of a motor vehicle.

6 A person who violates the bill commits a simple misdemeanor  
7 punishable by a scheduled fine of \$30. The offense is not  
8 a moving violation, and therefore cannot be considered for  
9 purposes of administrative suspension of a driver's license  
10 or to establish habitual offender status. However, if the  
11 violation causes a serious injury, a court could impose an  
12 additional fine of \$500 or suspend the person's driver's  
13 license for not more than 90 days, or both. If the violation  
14 causes a death, a court could impose an additional fine of  
15 \$1,000 or suspend the person's driver's license for not more  
16 than 180 days, or both.

17 The bill takes effect July 1, 2010, but for the first year,  
18 peace officers are only allowed to issue warning citations.  
19 The department of transportation and the department of public  
20 safety will engage in a public education effort to foster  
21 compliance with the text-messaging ban.